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8 **BEFORE THE**
9 **BOARD OF PHARMACY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Statement of Issues
13 Against:

Case No. 3449

OAH No. 2011040968

14 **BONNIE YVONNE VELAZQUEZ**

DEFAULT DECISION AND ORDER

15 Respondent. [Gov. Code, § 11520]
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18 **FINDINGS OF FACT**

19 1. On or about June 9, 2010, Complainant Virginia Herold, in her official capacity as the
20 Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Statement of
21 Issues Case No. 3449 against Bonnie Yvonne Velazquez (Respondent) before the Board of
22 Pharmacy.

23 2. On or about April 30, 2008, Respondent filed an application dated April 24, 2008,
24 with the Board of Pharmacy to obtain a pharmacy technician license.

25 3. On or about March 5, 2009, the Board issued a letter denying Respondent's
26 application for a pharmacy technician license. On or about May 5, 2009, Respondent appealed
27 the Board's denial of her application and requested a hearing.
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1 4. On or about June 15, 2010, Joanne Millot, an employee of the Department of Justice,
2 served by Certified and First Class Mail a copy of the Statement of Issues Case No. 3449,
3 Statement to Respondent, Request for Discovery, Government Code sections 11507.5, 11507.6,
4 and 11507.7, and Notice from Respondent/Applicant to Respondent's address on the application
5 form, which was and is 2844 D Avenue, National City, CA 91950. A copy of the Statement of
6 Issues is attached as Exhibit A, and is incorporated herein by reference.

7 5. Service of the Statement of Issues was effective as a matter of law under the
8 provisions of Government Code section 11505, subdivision (c)

9 6. On or about May 5, 2009, Respondent appealed the denial of her application and
10 requested a hearing in this action. A Notice of Hearing was served by mail at Respondent's
11 address on the application and it informed her that an administrative hearing in this matter was
12 scheduled for December 7, 2011. Respondent failed to appear at that hearing.

13 7. Business and Professions Code section 118 states, in pertinent part:

14 (a) The withdrawal of an application for a license after it has been filed with a
15 board in the department shall not, unless the board has consented in writing to such
16 withdrawal, deprive the board of its authority to institute or continue a proceeding
against the applicant for the denial of the license upon any ground provided by law or
to enter an order denying the license upon any such ground.

17 8. Government Code section 11506 states, in pertinent part:

18 (c) The respondent shall be entitled to a hearing on the merits if the respondent
19 files a notice of defense, and the notice shall be deemed a specific denial of all parts
20 of the accusation not expressly admitted. Failure to file a notice of defense shall
constitute a waiver of respondent's right to a hearing, but the agency in its discretion
may nevertheless grant a hearing.

21 9. California Government Code section 11520 states, in pertinent part:

22 (a) If the respondent either fails to file a notice of defense or to appear at the
23 hearing, the agency may take action based upon the respondent's express admissions
24 or upon other evidence and affidavits may be used as evidence without any notice to
25 respondent; and where the burden of proof is on the respondent to establish that the
respondent is entitled to the agency action sought, the agency may act without taking
evidence.

26 10. Pursuant to its authority under Government Code section 11520, the Board finds
27 Respondent is in default. The Board will take action without further hearing and, based on
28 evidence on file herein, finds that the allegations, in Statement of Issues Case No. 3449 are true.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Bonnie Yvonne Velazquez has subjected her application for a pharmacy technician license to denial.

2. Service of Statement of Issues No. 3449 and related documents was proper and in accordance with the law.

3. The agency has jurisdiction to adjudicate this case by default.

4. The Board of Pharmacy is authorized to deny Respondent's application for licensure based upon the following violations alleged in the Statement of Issues:

a. July 1, 2005 Conviction for Battery on Emergency Personnel on June 28, 2005, making Respondent's application subject to denial under Business and Professions Code (Code) section 480, subdivision (a)(1);

b. Dishonesty and Knowingly Making a False Statement on her Application, making Respondent's application subject to denial under Code section 480, subdivisions (a)(2) and (c);

c. Falsification of an Application, making Respondent's application subject to denial under Code section 480, subdivision (a)(3)(A); and

d. Conviction of a Crime, making Respondent's application subject to denial under Code section 480, subdivision (a)(3)(A).

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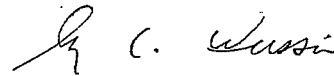
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2 ORDER

3 IT IS SO ORDERED that the application of Respondent Bonnie Yvonne Velazquez is
4 hereby denied.

5 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
6 written motion requesting that the Decision be vacated and stating the grounds relied on within
7 seven (7) days after service of the Decision on Respondent. The agency in its discretion may
8 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.
9 This decision shall become effective on April 23, 2012.

10 It is so ORDERED on March 23, 2012.

11 BOARD OF PHARMACY
12 DEPARTMENT OF CONSUMER AFFAIRS
13 STATE OF CALIFORNIA

14 

15 By

16 STANLEY C. WEISSER

17 Board President

18 DOJ docket number:SD2009804722
19 80581373.DOC

20 Attachment:

21 Exhibit A: Statement of Issues No.3449
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Exhibit A

Statement of Issues No. 3449

1 EDMUND G. BROWN JR.
Attorney General of California
2 JAMES M. LEDAKIS
Supervising Deputy Attorney General
3 CARL W. SONNE
Deputy Attorney General
4 State Bar No. 116253
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-3164
7 Facsimile: (619) 645-2061
Attorneys for Complainant

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9 **BEFORE THE**
BOARD OF PHARMACY
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Statement of Issues
Against:

Case No. 3449

13
14 **BONNIE YVONNE VELAZQUEZ**
2844 D Avenue
15 National City, CA 91950

STATEMENT OF ISSUES

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Virginia Herold (Complainant) brings this Statement of Issues solely in her official
21 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

22 2. On or about April 30, 2008, the Board of Pharmacy, Department of Consumer Affairs
23 received an application for a pharmacy technician license from Bonnie Yvonne Velazquez
24 (Respondent). On or about April 24, 2008, Bonnie Yvonne Velazquez certified under penalty of
25 perjury to the truthfulness of all statements, answers, and representations in the application. The
26 Board denied the application on March 5, 2009.

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JURISDICTION

3. This Statement of Issues is brought before the Board of Pharmacy (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 480 of the Code states:

“(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

“(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

“(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself or herself or another, or substantially injure another.

“(3)(A) Done any act that if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

“(B) The board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions, or duties of the business or profession for which application is made.

“(b) Notwithstanding any other provision of this code, no person shall be denied a license solely on the basis that he or she has been convicted of a felony if he or she has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code or that he or she has been convicted of a misdemeanor if he or she has met all applicable requirements of the criteria of rehabilitation developed by the board to evaluate the rehabilitation of a person when considering the denial of a license under subdivision (a) of Section 482.

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1 “(c) A board may deny a license regulated by this code on the ground that the applicant
2 knowingly made a false statement of fact required to be revealed in the application for the
3 license.”

4 5. Section 482 of the Code states:

5 “Each board under the provisions of this code shall develop criteria to evaluate the
6 rehabilitation of a person when:

7 “(a) Considering the denial of a license by the board under Section 480; or

8 “(b) Considering suspension or revocation of a license under Section 490.

9 “Each board shall take into account all competent evidence of rehabilitation furnished by
10 the applicant or licensee.”

11 6. Section 4301 of the Code states:

12 “The board shall take action against any holder of a license who is guilty of unprofessional
13 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.
14 Unprofessional conduct shall include, but is not limited to, any of the following:

15 “....

16 “(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or
17 corruption, whether the act is committed in the course of relations as a licensee or otherwise, and
18 whether the act is a felony or misdemeanor or not.

19 “(g) Knowingly making or signing any certificate or other document that falsely represents
20 the existence or nonexistence of a state of facts.

21 “(l) The conviction of a crime substantially related to the qualifications, functions, and
22 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
23 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
24 substances or of a violation of the statutes of this state regulating controlled substances or
25 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
26 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
27 The board may inquire into the circumstances surrounding the commission of the crime, in order
28 to fix the degree of discipline or, in the case of a conviction not involving controlled substances

1 or dangerous drugs, to determine if the conviction is of an offense substantially related to the
2 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
3 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
4 of this provision. The board may take action when the time for appeal has elapsed, or the
5 judgment of conviction has been affirmed on appeal or when an order granting probation is made
6 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
7 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
8 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
9 indictment.

10 "..."

11 REGULATIONS

12 7. California Code of Regulations, title 16, section 1769, states:

13 "(a) When considering the denial of a facility or personal license under Section 480 of the
14 Business and Professions Code, the board, in evaluating the rehabilitation of the applicant and his
15 present eligibility for licensing or registration, will consider the following criteria:

16 "(1) The nature and severity of the act(s) or offense(s) under consideration as grounds for
17 denial.

18 "(2) Evidence of any act(s) committed subsequent to the act(s) or crime(s) under
19 consideration as grounds for denial under Section 480 of the Business and Professions Code.

20 "(3) The time that has elapsed since commission of the act(s) or crime(s) referred to in
21 subdivision (1) or (2).

22 "(4) Whether the applicant has complied with any terms of parole, probation, restitution or
23 any other sanctions lawfully imposed against the applicant.

24 "(5) Evidence, if any, of rehabilitation submitted by the applicant.

25 "..."

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1 8. California Code of Regulations, title 16, section 1770, states:

2 "For the purpose of denial, suspension, or revocation of a personal or facility license
3 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a
4 crime or act shall be considered substantially related to the qualifications, functions or duties of a
5 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a
6 licensee or registrant to perform the functions authorized by his license or registration in a manner
7 consistent with the public health, safety, or welfare."

8 FIRST CAUSE FOR DENIAL OF APPLICATION

9 (July 1, 2005 Conviction for Battery on Emergency Personnel on June 28, 2005)

10 9. Respondent's application is subject to denial under section 480, subdivision (a)(1),
11 she has been convicted of a crime that is substantially related to the functions and duties of a
12 pharmacy technician. The circumstances are as follows.

13 a. On or about July 1, 2005, in a criminal proceeding entitled *The People of the State of*
14 *California v. Bonnie Yvonne Velazquez*, in San Diego Superior Court, case number S194457,
15 Respondent was convicted by her plea of guilty to violation of Penal Code section 243,
16 subdivision (b), battery on emergency personnel, a misdemeanor.

17 b. The facts and circumstances leading to the conviction as set forth in Respondent's
18 plea form signed on June 28, 2005, were that she unlawfully used force against an emergency
19 medical technician.

20 c. On or about July 1, 2005, Respondent was sentenced to summary probation for three
21 years; 180 days of custody, stayed pending successful completion of probation; ordered to violate
22 no laws; pay various fines and fees; complete a Public Service Work Program (PSWP) for 15
23 days and to submit to search at any time with or without a warrant, with or without reasonable
24 cause, when required by a Probation Officer or other law enforcement officer.

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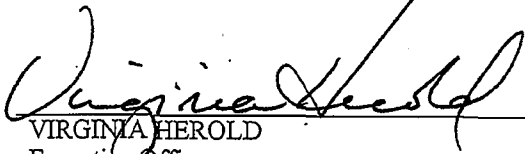
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1 PRAYER

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
3 and that following the hearing, the Board of Pharmacy issue a decision:

- 4 1. Denying the application of Bonnie Yvonne Velazquez for a pharmacy technician
5 license;
6 2. Taking such other and further action as deemed necessary and proper.

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8 DATED: 6/9/10


9 VIRGINIA HEROLD
10 Executive Officer
11 Board of Pharmacy
12 Department of Consumer Affairs
13 State of California
14 Complainant

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